



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 8, 1996

Mr. John Steiner
Division Chief
Law Department
City of Austin
P.O. Box 1088
Austin, Texas 78767-1088

OR96-0677

Dear Mr. Steiner:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 39047.

The City of Austin Police Department (the "city") received a request for a certain offense report with accompanying written confession and supplementary reports. The request is from an attorney who states she made the request "[o]n the Defendant's behalf." The city and the requestor state that the defendant on whose behalf the request is made is incarcerated in a Texas Department of Criminal Justice correctional facility.

You ask whether the city may deny the release of the requested information pursuant to section 552.027 of the Government Code. In the alternative, you assert that the requested information is excepted from required public disclosure based on section 552.108 of the Government Code.

Section 552.027 provides the following:

- (a) A governmental body is not required to accept or comply with a request for information from an individual who is imprisoned or confined in a correctional facility.

(b) Subsection (a) does not prohibit a governmental body from disclosing to an individual described by that subsection information held by the governmental body pertaining to that individual.

(c) In this section, "correctional facility" has the meaning assigned by Section 1.07(a), Penal Code.¹

Gov't Code § 552.027 (footnote added). This provision permits governmental bodies to decline to accept or comply with requests for information submitted by "an individual who is imprisoned or confined in a correctional facility," as that statute defines correctional facility. The request before us was not in fact made by an inmate, but rather was made on an inmate's behalf. Nonetheless, we conclude section 552.027 governs the release of information to an attorney who requests the information on behalf of an inmate.

We are bound to construe statutes in ways so as not to produce an absurd or unreasonable result. *City of Wilmer v. Laidlaw Waste Sys. (Dallas), Inc.*, 890 S.W.2d 459, 465 (Tex. App.--Dallas 1994), *aff'd*, 904 S.W.2d 656 (Tex. 1995); *see State Highway Dept v. Gorham*, 162 S.W.2d 934 (Tex. 1942); *Anderson v. Penix*, 161 S.W.2d 455 (Tex. 1942). A construction of section 552.027 that would permit a governmental body to decline to comply with a request submitted by an inmate, on the one hand, but that would require the governmental body to comply with one submitted by an inmate's agent, on the other, is absurd on its face. We decline to adopt such a construction.

Second, construing the provision to require a governmental body to comply with a request submitted by an inmate's agent while at the same time permitting that governmental body to ignore a request submitted by the inmate himself would entail a manifest circumvention of the provision and frustrate the obvious intent of the legislature when it enacted section 552.027. A bill analysis for House Bill No. 949 describes the evil that the legislation was designed to prevent:

¹Section 1.07(a)(14) of the Penal Code provides:

"Correctional facility" means a place designated by law for the confinement of a person arrested for, charged with, or convicted of a criminal offense. The term includes:

(A) a municipal or county jail;

(B) a confinement facility operated by the Texas Department of Criminal Justice;

(C) a confinement facility operated under contract with any division of the Texas Department of Criminal Justice; and

(D) a community corrections facility operated by a community supervision and corrections department.

Currently, Texas inmates are able to receive information through Chapter [552], Government Code (Open Records Act). Through this avenue, inmates have been using information obtained through Chapter [552] to file bogus income tax returns on correctional officers, harass nurses at their home addresses, and send mail to the homes of Texas Department of Criminal Justice employees.

Tex. Sen. Criminal Justice Comm., Bill Analysis, Tex. H.B. 949, 74th Leg., R.S. (1995) (quoting from "Background") (available through Senate Research Center). If an agent of an inmate were permitted to avail himself of the Open Records Act to obtain information on behalf of an inmate who otherwise would be prevented by section 552.027 from obtaining the information, the manifest intention of the legislature would be thwarted. *See Crimmins v. Lawry*, 691 S.W. 2d 582, 584 (Tex. 1985) ("legislative intent is the law itself, and must be enforced if determined although it may not be consistent with the strict letter of the statute").

We conclude that section 552.027 of the Government Code permits a governmental body to decline to accept or comply with a request that is submitted by that person's agent. As the request here was submitted on behalf of an incarcerated individual, the city need not respond to the request.²

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 39047

²Having concluded that the city may ignore this request based on section 552.007 of the Government Code, we need not address your section 552.108 claim.

Enclosures: Submitted documents

cc: Ms. Paige Massey
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(w/o enclosures)